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10/024,890	12/18/2001	Michael J. Kinnavy	29250/CE08262R	5191

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EXAMINER

SMITH, SHEILA B

ART UNIT PAPER NUMBER

2681

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/024,890

**Applicant(s)**

KINNAVY, MICHAEL J.

**Examiner**

Sheila B. Smith

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-6,8-14,16-27,29-33 rejected under 35 U.S.C. 102(e) as being anticipated by

Henry, Jr. et al. (U. S. Patent Number 6,560,453).

*Regarding claim 1*, Henry, Jr. et al. discloses essentially all the claimed invention as set forth in the instant application, further Henry, Jr. et al. discloses system, methods and computer program products for dynamically adjusting the paging channel monitoring frequency of a mobile terminal based on the operating environment. In addition Henry, Jr. et al. discloses a wireless communication system, the communication system providing communication service to a mobile station, wherein the mobile station monitors for transmission from a base station via a communication resource based on an operating slot cycle index corresponding to an operating slot cycle, a method for enabling a preferred slot cycle (which reads on the abstract), the method comprising receiving control information associated with slot cycles operable by the base station (which reads on column 1 lines 44-48 and lines 55-59); adjusting the operating slot cycle index to a preferred slot cycle index in response to a trigger event (user input) (which reads on column 2 lines 23-27), the preferred slot cycle index corresponding to a preferred slot cycle (which reads on “The SCI manager program module 74 may include programs for determining

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a current operating environment” disclosed in column 5 lines 49-50); and transmitting the preferred slot cycle index to the base station so that the mobile station is in communication with the base station via the communication resource during a slot (which reads on column 5 lines 49-52), the slot reoccurring based on the preferred slot cycle (which reads on column 3 lines 7-11), wherein the preferred slot cycle is one of the slot cycles operable by the base station (which reads on “the SCI manager program module 74 may include programs for dynamically adjusting the value of the SCI parameter based on the current operating environment” as disclosed in column 5 lines 53-56).

**Regarding claim 2**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses the step of adjusting the operating slot cycle index to a preferred slot cycle index comprises adjusting the operating slot cycle index to a preferred slot cycle index being greater than the operating slot cycle index such that the preferred slot cycle is longer than the operating slot cycle (which reads on column 5 lines 49-52).

**Regarding claim 3**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses adjusting the operating slot cycle index to a preferred slot cycle index comprises adjusting the operating slot cycle index to a preferred slot cycle index being less than the operating slot cycle index such that the preferred slot cycle is shorter than the operating slot cycle (which reads on column 5 lines 49-52).

**Regarding claim 4**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses adjusting the operating slot cycle index to a preferred slot cycle index in response to a trigger event comprises adjusting the operating slot

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cycle index to the preferred slot cycle index in response to a user-selectable input, a voice input, and an operating characteristic associated with the mobile station (which reads on column 2 lines 39-50 and column 5 lines 49-52).

**Regarding claim 5**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses adjusting the operating slot cycle index to a preferred slot cycle index in response to a trigger event comprises adjusting the operating slot cycle index to a preferred slot cycle index in response to the mobile station being at a battery power threshold (which reads on column 2 lines 5-10 and column 9 lines 11-25).

**Regarding claim 6**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses adjusting the operating slot cycle index to a preferred slot cycle index in response to a trigger event comprises adjusting the operating slot cycle index to a preferred slot cycle index in response to the mobile station being idle (which reads on column 9 lines 11-25).

**Regarding claim 8**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses transmitting the preferred slot cycle index to the base station such that the mobile station is in communication with the base station via the communication resource during a slot comprises transmitting the preferred slot cycle index to the base station so that the mobile station is in communication with the base station via a paging channel during a slot (which reads on column 9 lines 11-25).

**Regarding claim 9**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses transmitting the preferred slot cycle index to the

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base station such that the base station is in communication with the mobile station during a slot comprises transmitting the preferred slot cycle index to the base station via a registration so that the base station is in communication with the mobile station via the communication resource during a slot (which reads on column 9 lines 11-25).

***Regarding claim 10***, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses transmitting the preferred slot cycle index to the base station such that the base station is in communication with the mobile station during a slot comprises transmitting the preferred slot cycle index to the base station via a n access channel so that the base station is in communication with the mobile station during a slot (which reads on column 9 lines 11-25).

***Regarding claim 11***, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1) additionally, Henry, Jr. et al. discloses the communication system comprises a code division multiple access (CDMA) based communication system (which reads on column 9 lines 19-22).

***Regarding claim 12***, Henry, Jr. et al. discloses essentially all the claimed invention as set fourth in the instant application, further Henry, Jr. et al. discloses system, methods and computer program products for dynamically adjusting the paging channel monitoring frequency of a mobile terminal based on the operating environment. In addition Henry, Jr. et al. discloses a wireless communication system, the communication system providing communication service to a mobile station, wherein the mobile station monitors for transmission from a base station via a communication resource based on an operating slot cycle index corresponding to an operating slot cycle, and wherein the mobile station is operable to enable a preferred slot cycle (which

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reads on the abstract), the mobile station comprising a user input device (42), a receiving unit (52) adapted to receive control information associated with slot cycles operable by the base station (which reads on column 4 lines 56-58); a controller (74) operatively coupled to the user input device (42) and the receiving unit (52), the controller comprising a processor (56) and a memory (54) operatively coupled to the processor (56), and the controller being programmed to adjust the operating slot cycle index to a preferred slot cycle index in response to a trigger event, wherein the preferred slot cycle index corresponds to a preferred slot cycle (which reads on “The SCI manager program module 74 may include programs for determining a current operating environment” disclosed in column 5 lines 49-50); and transmitting the preferred slot cycle index to the base station so that the mobile station is in communication with the base station via the communication resource during a slot (which reads on column 5 lines 49-52), the slot reoccurring based on the preferred slot cycle (which reads on column 3 lines 7-11), wherein the preferred slot cycle is one of the slot cycles operable by the base station (which reads on “the SCI manager program module 74 may include programs for dynamically adjusting the value of the SCI parameter based on the current operating environment” as disclosed in column 5 lines 53-56).

**Regarding claim 13**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12) additionally, Henry, Jr. et al. discloses the preferred slot cycle index comprises a preferred slot cycle index greater than the operating slot cycle index such that the preferred slot cycle is longer than the operating slot cycle (which reads on column 5 lines 49-52).

**Regarding claim 14**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12 ) additionally, Henry, Jr. et al. discloses the preferred slot cycle index comprises a

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preferred slot cycle index less than the operating slot cycle index such that the preferred slot cycle is shorter than the operating slot cycle (which reads on column 5 lines 49-52).

**Regarding claim 16**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12 ) additionally, Henry, Jr. et al. discloses the user-input device comprises a numeric keypad, an alphanumeric keypad, a touch-sensitive display, and a microphone (which reads on column 2 lines 39-50 and column 5 lines 49-52).

**Regarding claim 17**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12 ) additionally, Henry, Jr. et al. discloses the trigger event comprises one of a user-selectable input, a voice input, and an operating characteristic associated with the mobile station (which reads on column 2 lines 39-50 and column 5 lines 49-52).

**Regarding claim 18**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12 ) additionally, Henry, Jr. et al. discloses the trigger event comprises the mobile station being at a battery power threshold (which reads on column 2 lines 5-10 and column 9 lines 11-25).

**Regarding claim 19**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12 ) additionally, Henry, Jr. et al. discloses the trigger event comprises the mobile station being idle (which reads on column 9 lines 11-25).

**Regarding claim 20**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12 ) additionally, Henry, Jr. et al. discloses the communication resource comprises a paging channel (which reads on column 9 lines 11-25).



**Regarding claim 21**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 12 ) additionally, Henry, Jr. et al. discloses the mobile station operates in accordance with a code division multiple access (CDMA) based communication protocol (which reads on column 9 lines 19-22).

**Regarding claim 22**, Henry, Jr. et al. discloses essentially all the claimed invention as set forth in the instant application, further Henry, Jr. et al. discloses system, methods and computer program products for dynamically adjusting the paging channel monitoring frequency of a mobile terminal based on the operating environment. In addition Henry, Jr. et al. discloses a wireless communication system, the communication system for providing communication service for a mobile station, wherein the mobile station monitors for transmission from a base station via a communication resource based on an operating slot cycle index corresponding to an operating slot cycle (which reads on the abstract), and wherein a processor (56) operates in accordance with a computer program embodied on a computer-readable medium (54) for enabling a preferred slot cycle, the computer program comprising a first routine that directs the processor to receive control information associated with slot cycles operable by the base station (which reads on column 5 lines 49-51 and exhibited in figure 2); a second routine that directs the processor to adjust the operating slot cycle index to a preferred slot cycle index in response to a trigger event (which reads on column 5 lines 51-53), a preferred slot cycle index, the preferred slot cycle index corresponding to a preferred slot cycle; and a third routine that directs the processor to transmit the preferred slot cycle index to the base station so that the mobile station is in communication with the base station during a slot (which reads on column 9 lines 19-22), the slot reoccurring based on the preferred slot cycle, wherein the preferred slot

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cycle is one of the slot cycles operable by the base station (which reads on “The SCI manager program module 74 may include programs for determining a current operating environment” disclosed in column 5 lines 49-50); and transmitting the preferred slot cycle index to the base station so that the mobile station is in communication with the base station via the communication resource during a slot (which reads on column 5 lines 49-52), the slot reoccurring based on the preferred slot cycle (which reads on column 3 lines 7-11), wherein the preferred slot cycle is one of the slot cycles operable by the base station (which reads on “the SCI manager program module 74 may include programs for dynamically adjusting the value of the SCI parameter based on the current operating environment” as disclosed in column 5 lines 53-56). **Regarding claim 23**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the second routine comprises a routine that directs the processor to adjust the operating slot cycle index to a preferred slot cycle index being greater than the operating slot cycle index such that the preferred slot cycle is longer than the operating slot cycle (which reads on column 5 lines 49-52).

**Regarding claim 24**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the second routine comprises a routine that directs the processor to adjust the operating slot cycle index to a preferred slot cycle index being less than the operating slot cycle index such that the preferred slot cycle is shorter than the operating slot cycle (which reads on column 5 lines 49-52).

**Regarding claim 25**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the second routine comprises a routine that

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directs the processor to adjust the operating slot cycle index to the preferred slot cycle index in response to a user-selectable input, a voice input, and an operating characteristic associated with the mobile station (which reads on column 2 lines 39-50 and column 5 lines 49-52).

**Regarding claim 26**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the second routine comprises a routine that directs the processor to adjust the operating slot cycle index to a preferred slot cycle index in response to the mobile station being at a battery power threshold (which reads on column 2 lines 5-10 and column 9 lines 11-25).

**Regarding claim 27**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the second routine comprises a routine that directs the processor to adjust the operating slot cycle index to a preferred slot cycle index in response to the mobile station being idle (which reads on column 9 lines 11-25).

**Regarding claim 29**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the third routine comprises a routine that directs the processor to transmit the preferred slot cycle index to the base station so that the mobile station is in communication with the base station via a paging channel during a slot (which reads on column 9 lines 11-25).

**Regarding claim 30**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the third routine comprises a routine that directs the processor to transmit the preferred slot cycle index to the base station via a registration so that the base station is in communication with the mobile station via the communication resource during a slot (which reads on column 5 lines 49-52).

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**Regarding claim 31**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the third routine comprises a routine that directs the processor to transmit the preferred slot cycle index to the base station via an access channel so that the base station is in communication with the mobile station via the communication resource during a slot (which reads on column 5 lines 49-52).

**Regarding claim 32**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 32 ) additionally, Henry, Jr. et al. discloses the computer program operates in accordance with a code division multiple access (CDMA) based communication protocol (which reads on column 9 lines 19-22).

**Regarding claim 33**, Henry, Jr. et al. discloses everything claimed, as applied above (see claim 22 ) additionally, Henry, Jr. et al. discloses the medium is one of paper, a programmable gate array, application specific integrated circuit, erasable programmable read only memory, read only memory, random access memory, magnetic media, and optical media (which reads on column 4 lines 42-48).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7,15,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry, Jr. et al. in view of Moon et al. (U. S. Patent Number 6,577,608).

***Regarding claims 7, 15, 28,*** Henry, Jr. et al. discloses everything claimed, as applied above (see claim 1 ) additionally, Henry, Jr. et al. discloses the step of adjusting the operating slot cycle index to a preferred slot cycle index in response to a trigger event comprises adjusting the operating slot cycle index to a slot number in response to a trigger event as disclosed in column 5 lines 49-55. However, Henry Jr. et al. fails to specifically disclose a slot number including one of zero (0), one (1), two (2), three (3), four (4), five (5), six (6) and seven (7).

In the same field of endeavor, Moon et al. further discloses a communication control device and method for CDMA communication system. In addition Moon et al. discloses a slot number including one of zero (0), one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) as disclosed in column 3 lines 10-15.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to improve Henry Jr. et al. by modifying a system, methods and computer program products for dynamically adjusting the paging channel monitoring frequency of a mobile terminal based on the operating environment with the use of a slot number including one of zero (0), one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) as taught by Moon et al. for the purpose of letting the mobile station enter the sleep mode to save power.

### ***Response to Arguments***

3. Applicant's arguments filed 11/08/04 have been fully considered but they are not persuasive.

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Applicant argues that the Henry reference fails to teach or suggest “selecting a slot to be one of the slot cycles supported by the base station claimed in claims 1, 12, and 22.

The examiner disagrees and contends that Henry discloses in column 5 lines 49-55 that “The SCI manager program module 74 may include programs for determining a current operating environment” and that “the SCI manager program module 74 may include programs for dynamically adjusting the value of the SCI parameter based on the current operating environment” which is more than adequate to meet the limitation.

The examiner standby and restates the above rejection.

#### ***Response to Amendment***

4. The declaration filed on 11/08/04 under 37 CFR 1.131 has been considered but is ineffective to overcome the Henry reference.

5. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Henry reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The affidavit or declaration must state FACTS and produce such documentary evidence and exhibits in support thereof as are available to show conception and completion of invention in this country or in a NAFTA or WTO member country (MPEP § 715.07(c)), at least the conception being at a date prior to the effective date of the reference. Where there has not been reduction to practice prior to the date of the reference,

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the applicant or patent owner must also show diligence in the completion of his or her invention from a time just prior to the date of the reference continuously up to the date of an actual reduction to practice or up to the date of filing his or her application (filing constitutes a constructive reduction to practice, 37 CFR 1.131). As discussed above, 37 CFR 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show: (A) reduction to practice of the invention prior to the effective date of the reference; or (B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or (C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice). A conception of an invention, though evidenced by disclosure, drawings, and even a model, is not a complete invention under the patent laws, and confers no rights on an inventor, and has no effect on a subsequently granted patent to another, UNLESS THE INVENTOR FOLLOWS IT WITH REASONABLE DILIGENCE BY SOME OTHER ACT, such as an actual reduction to practice or filing an application for a patent. *Automatic Weighing Mach. Co. v. Pneumatic Scale Corp.*, 166 F.2d 288, 1909 C.D. 498, 139 O.G. 991 (1st Cir. 1909). See MPEP 715.07

6. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Henry reference to either a constructive reduction to practice or an actual reduction to practice. According to the declaration filed on 11/08/04 it states on line 10 that the device was not yet built or tested. Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant

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or patent owner had been diligent. Ex parte Hunter, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence. In determining the sufficiency of a 37 CFR 1.131 affidavit or declaration, diligence need not be considered unless conception of the invention prior to the effective date is clearly established, since diligence comes into question only after prior conception is established. Ex parte Kantor, 177 USPQ 455 (Bd. App. 1958). What is meant by diligence is brought out in Christie v. Seybold, 1893 C.D. 515, 64 O.G. 1650 (6th Cir. 1893). In patent law, an inventor is either diligent at a given time or he is not diligent; there are no degrees of diligence. An applicant may be diligent within the meaning of the patent law when he or she is doing nothing, if his or her lack of activity is excused. Note, however, that the record must set forth an explanation or excuse for the inactivity; the USPTO or courts will not speculate on possible explanations for delay or inactivity. See In re Nelson, 420 F.2d 1079, 164 USPQ 458 (CCPA 1970). See MPEP 715.07 (a)

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,




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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

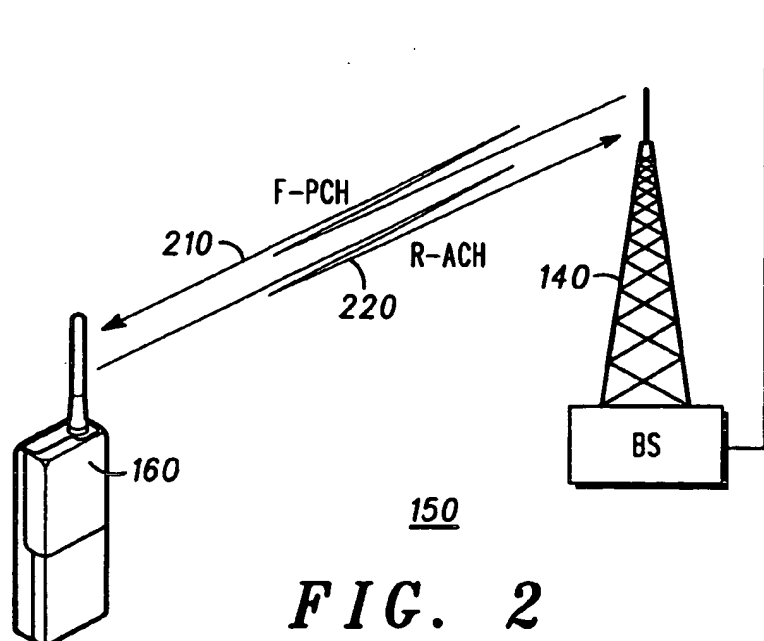
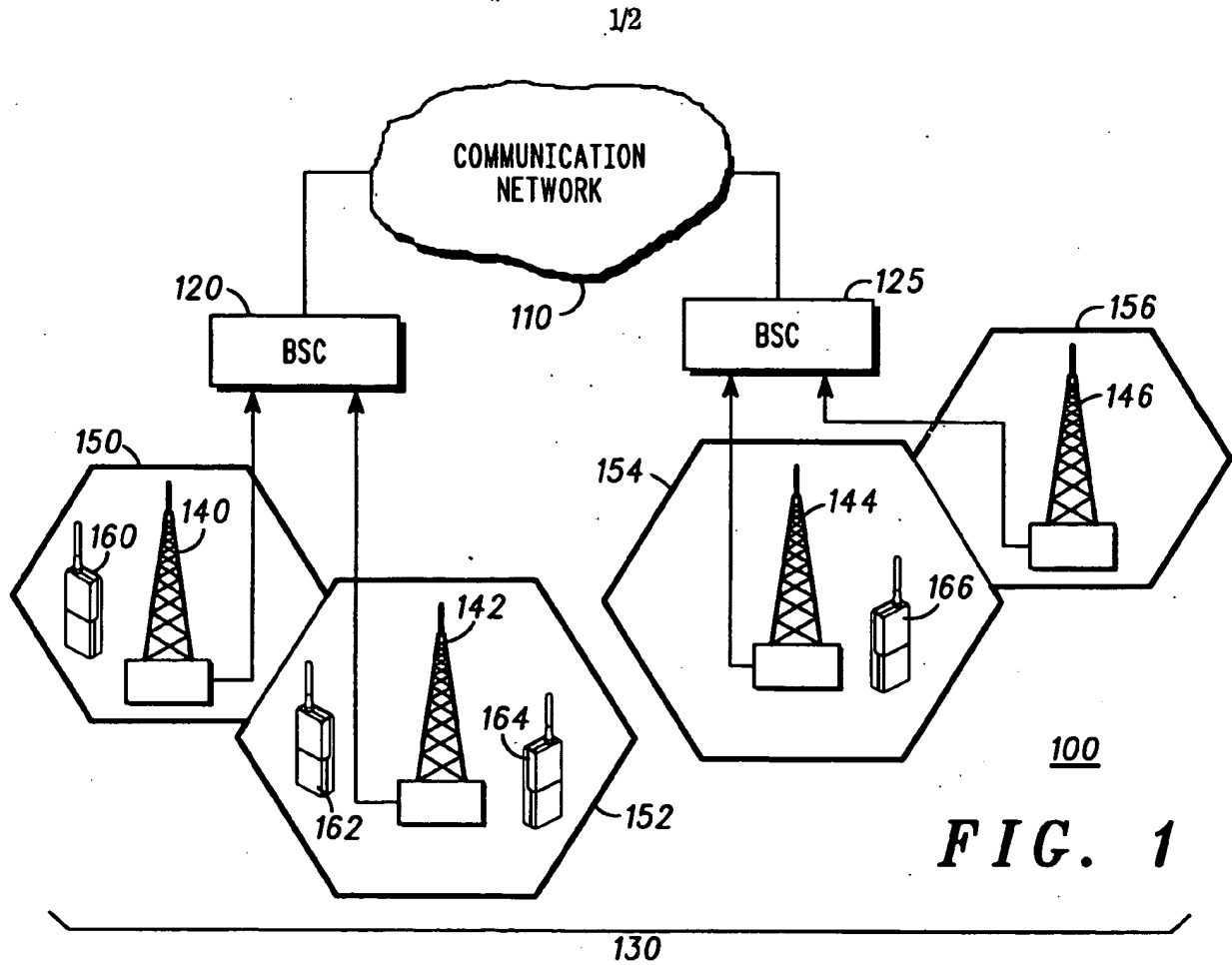
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

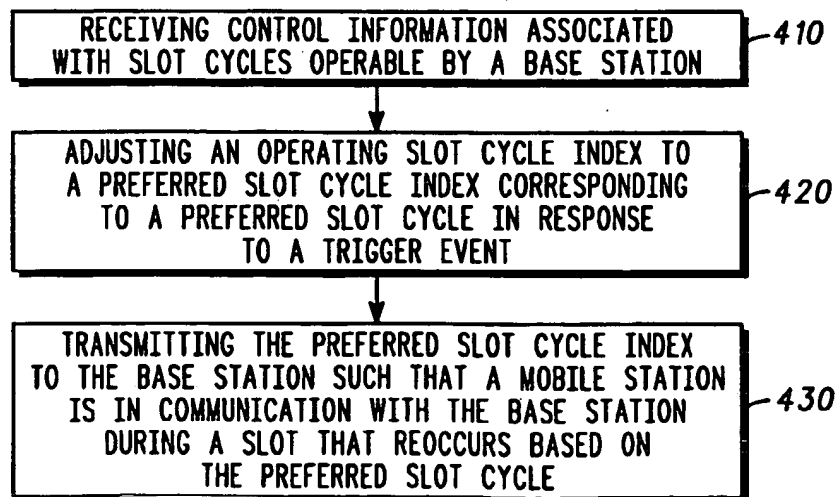
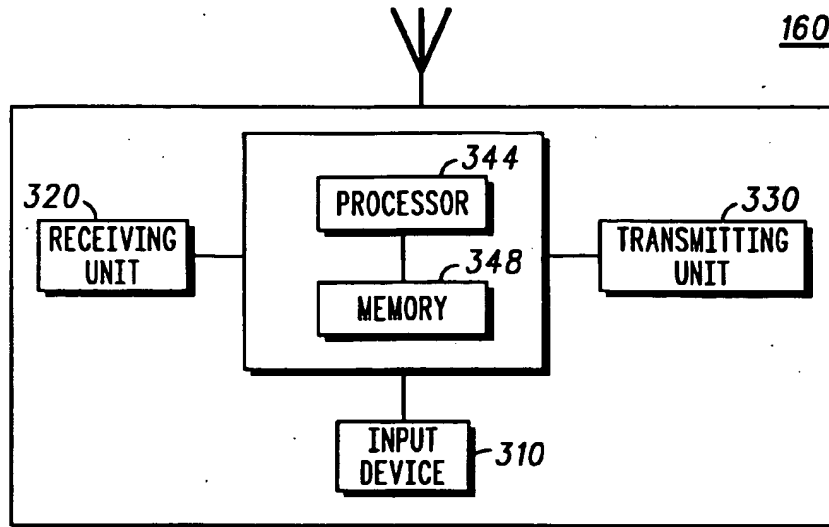
S. Smith   
April 28, 2005

FOOTNOTES



2/2

**FIG. 3**



400

**FIG. 4**

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